



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

October 5, 2020

Memorandum for: Deputy Commissioner, Trials

Re: **Sergeant Omar Salem**  
Tax Registry No. 943768  
Manhattan Court Section  
Disciplinary Case No. 2018-18434

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on July 30, 2020 and was charged with the following:

**DISCIPLINARY CASE NO. 2018-18434**

1. Said Sergeant Omar Salem, while assigned to the Brooklyn Court Section, on or about December 21, 2017, while off-duty, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant wrongfully was involved in a physical altercation with Person A.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

In a Memorandum dated August 28, 2020, Assistant Deputy Commissioner Jeff S. Adler found Sergeant Salem Guilty of the sole specification in Disciplinary Case No. 2018-18434. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct of which Sergeant Salem has been found Guilty, and deem that a penalty that includes a period of monitoring and counseling is warranted.

Sergeant Salem engaged in a physical altercation with his [REDACTED] whereby Sergeant Salem pushed his [REDACTED] and held her down. Such conduct is egregious and thus warrants an upward penalty departure to consist of close Department monitoring while on Dismissal Probation as well as additional counseling in the form of participation in the 24-week OASAS program.

It is therefore directed that Sergeant Salem be offered a post-trial negotiated settlement agreement in which he shall forfeit (30) vacation days, be placed on one (1) year Dismissal Probation, and cooperate with 24-week counseling as a disciplinary penalty.

If Sergeant Salem does not agree to the terms of this post-trial negotiated agreement as noted, this Office is to be notified without delay.

A handwritten signature in dark ink, appearing to read "Dermot F. Shea", with a long horizontal flourish extending to the right.

Dermot F. Shea  
Police Commissioner



POLICE DEPARTMENT

August 28, 2020

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2018-18434
Sergeant Omar Salem	:	
Tax Registry No. 943768	:	
Manhattan Court Section	:	

-----X

At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Jeff S. Adler  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For the Respondent: Matthew Schieffer, Esq.  
The Quinn Law Firm  
Crosswest Office Center  
399 Knollwood Road, Suite 220  
White Plains, NY 10603

To:  
HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Said Sergeant Omar Salem, while assigned to the Brooklyn Court Section, on or about December 21, 2017, while off-duty, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant wrongfully was involved in a physical altercation with the complainant.  
P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –  
PROHIBITED CONDUCT  
GENERAL REGULATIONS

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 30, 2020.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Police Officer Melanie Weinstein as a witness. The complaining witness did not appear, so the Department introduced multiple hearsay statements made by the complainant. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent guilty, and recommend a penalty of thirty (30) vacation days.

## ANALYSIS

On the morning of December 21, 2017, Respondent was abruptly awakened by the complainant, who confronted him with allegations of infidelity, and displayed the evidence supporting her suspicions: a hotel key and condoms she discovered in his pocket. It is alleged that during the ensuing quarrel, Respondent wrongfully pushed and shoved the complainant, and held her down.

The complainant was subpoenaed to testify but did not appear. Instead, the Department Advocate introduced into evidence various hearsay accounts provided by the complainant in the aftermath of the incident. It is well-settled that hearsay is admissible in administrative



proceedings, and may form the sole basis for a finding of fact. The hearsay, however, must be carefully evaluated to determine whether it is sufficiently reliable. It is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross examine, and the court can observe the witness's demeanor. In the absence of live testimony from the complainant here, this tribunal carefully considered her multiple prior statements.

Police Officer Melanie Weinstein testified that she interviewed the complainant at the station house on the date of the incident. She described the complainant as appearing "upset" during their conversation. Officer Weinstein prepared a Domestic Incident Report (Dept. Ex. 1), which contains a summary of the complainant's statement written by Officer Weinstein, as well as a narrative portion written by the complainant herself. (Tr. 37-38)

In the summary written by Officer Weinstein, she stated that after the complainant confronted Respondent with evidence of his cheating, he shoved the complainant and held her down on the ground. The complainant was not injured. Later that day, they argued again and Respondent told the complainant to leave the home; the complainant then called the police. The statement written by the complainant was essentially the same: she wrote that when she confronted Respondent with the condoms and hotel card, "he aggressively shoved me, held me down and got in my face." (Dept. Ex. 1)

A recording of the complainant's 911 call, and the accompanying transcript, were admitted into evidence (Dept. Ex. 2, 2A). In that call, which was made shortly after 1700 hours on December 21, the complainant calmly but emphatically states that she's scared for her life. She states that her husband is cheating on her, and she doesn't want him in the house. She complains that Respondent is telling her that she needs to get out with her three small children. The complainant does not mention the physical altercation with Respondent.

The Department also offered into evidence a recording of a phone call between the duty captain, who responded to the scene, and the IAB command center, following the incident. The captain, who has since retired, did not respond to a subpoena to appear, and so the recording, and accompanying transcript, were admitted into evidence (Dept. Ex. 2, 2B). In that call, the captain summarized what he learned at the scene: the complainant suspected Respondent of cheating and confronted him, he denied it, and there “was pushing and shoving on both ends.” There were no injuries, and no change in Respondent’s duty status.

The day after the incident, December 22, the complainant filed a petition with family court requesting an order of protection against Respondent. In that petition (Dept. Ex. 3), the complainant stated that Respondent “grabbed her forcefully by the arms and shoved her onto a bed; he cursed at her as he held her down.” The complainant then appeared in front of a family court judge on December 26. A transcript of that appearance (Dept. Ex. 4) reveals that the complainant, under oath, stated that when she confronted Respondent with evidence that he was being unfaithful, he “became very aggressive” with her. She later elaborated that “he held me down and shoved me to the bed.” (Dept. Ex. 4 at 3, 8)

On January 9, 2018, Sergeant Tanisha Jones of the Criminal Justice Bureau Investigations Unit spoke with the complainant on the telephone. A portion of that call was recorded; that recording, and the accompanying transcript, were admitted as Dept. Ex. 2 and 2C. In that conversation, the complainant stated that on the day she confronted him with cheating, Respondent “pushed her on the bed aggressively” and said very mean things to her. (Dept. Ex. 2C at 2) That same day, Sergeant Jones went to the complainant’s home to continue the conversation in person. (Dept. Ex. 2, 2D) The complainant again made reference to “the pushing, the shoving, and the cursing, and the demeaning.” (Dept. Ex. 2D at 7)

Sergeant Jones spoke with the complainant by phone again on July 3, 2018; that call was recorded, and a transcript was admitted as Dept. Ex. 5. The complainant stated that she and Respondent were communicating fine, he was doing well with their kids, and she wanted the case to be over with. The complainant stated that the incident between them “was just all verbal, you know, like back and forth.” She explained that when she made her accusation to the family court judge, she felt “vulnerable” and “cornered.” (Dept. Ex. 6 at 3, 7-8)

On March 19, 2019, Sergeant Jones had an additional phone conversation with the complainant, which was recorded; the transcript was admitted as Dept. Ex. 6. The complainant stated that things were fine with Respondent, they both went for counseling, and the fact that the case was lingering was taking a toll on Respondent’s career and the family. She repeated that the incident was just verbal, and that she was the one “who was getting in his face.” (Dept. Ex. 6 at 3-4, 7)

An e-mail sent by the complainant to family court on August 6, 2019 was admitted as Respondent’s Exhibit A. In that e-mail, the complainant began by asking to speak again to the family court judge who she appeared before in December of 2017. The complainant stated that what she had said back then was “untrue and exaggerated,” that it “came out of jealousy and anger.” She also noted in the e-mail that she repeatedly had told Sergeant Jones that the allegations were “completely false.”

Respondent testified that at the time of the incident, he and the complainant lived with their three children on the second floor of the Brooklyn house owned by his father; Respondent’s parents lived on the first floor. On the morning of the incident, the complainant woke him at about 0630 hours, and, in a rage, accused him of cheating on her. She was screaming and flailing her arms at him, and getting in his “personal space.” Respondent tried to back off, and merely put his hands up in front of his face because he was afraid the complainant would try to

punch or slap him. Respondent insisted it was the complainant who made physical contact with him, while he attempted to calm her down. (Tr. 50-54, 90-91)

After this altercation, which lasted three-to-five minutes, the complainant went out for a walk, while Respondent looked after their kids. Respondent eventually went to work, and returned home after his shift ended at 1624 hours. According to Respondent, the complainant was still enraged, and told Respondent to “get the fuck out.” He went downstairs to the first floor apartment, heard the complainant call 911, and waited for the police to respond. At some point, the duty captain arrived and spoke with both of them; Respondent explained to him what had occurred: “how she hit me, and stuff like that, and punching me, and at no point did I touch her or anything like that.” (Tr. 55, 58-59, 64, 67-68)

Respondent testified that he made three appearances in family court while he and the complainant were living apart; the complainant never appeared and so the case was dismissed. In the late spring or early summer of 2018, the complainant reached out to Respondent and apologized. They moved back in together around October of 2018, but separated again in late January of 2020 after Respondent served her with divorce papers. After the complainant moved out, Respondent discovered numerous messages that the complainant had written on the walls of the home, calling him a cheater, a quitter, and a liar. (Tr. 70-74, 78-82; see photographs in evidence, Resp. Ex. B1-B4).

Specification 1 charges Respondent with wrongfully being involved in a physical altercation with the complainant. It is undisputed that Respondent and the complainant were involved in a verbal altercation inside their home after she confronted him with evidence that he had cheated on her. At issue is whether during that altercation, Respondent pushed or shoved the complainant to the bed, and held her down. I find that he did.



The complainant did not appear to testify, so this tribunal was unable to witness her demeanor, and counsel was deprived of the opportunity to cross examine her about the details of her account. Nevertheless, the complainant's hearsay credibility was enhanced by the fact that she promptly and consistently related her account, that Respondent pushed her, multiple times to different people. On the day of the incident, she told Officer Weinstein that Respondent had shoved her and held her down. The complainant then wrote out the statement in her own words, again stating that Respondent "aggressively shoved me, held me down and got in my face." This statement, which included a warning that false statements are punishable as a misdemeanor, was signed by the complainant. The duty captain who responded to the location and spoke with the parties indicated, in his call to IAB, that there had been "pushing and shoving on both ends." The day after the incident, the complainant signed and filed a family court petition, in which she stated that Respondent "grabbed her forcefully by the arms and shoved her onto a bed; he cursed at her as he held her down." She then appeared before a judge and stated, under oath, that Respondent "held me down and shoved me to the bed." When she was twice interviewed by Sergeant Jones on January 9, 2018, the complainant again stated that Respondent had pushed her aggressively. Through all these tellings, the complainant's description of events remained essentially consistent and logical.

Respondent's testimony, in contrast, was less persuasive. His self-serving claim that he merely put his hands up in front of his face to protect himself was unconvincing when contrasted with the detailed, consistent statements from the complainant. This was not a situation where Respondent testified that he pushed the complainant away and held her down in self-defense. Rather, Respondent denied doing anything physical against the complainant, claiming any physical contact between them came only from the complainant. That claim goes against the weight of the credible evidence presented at this trial, and I reject it.

To be sure, counsel for Respondent is correct that the complainant did not immediately call 911; when she did call later that day she did not specifically mention the physical altercation, and seemed more concerned with being thrown out of the home with her children. She did, however, tell the 911 operator, "I am scared for my life." Counsel also argues that the complainant's initial allegations are not reliable in light of her subsequent recantations, both in her follow-up conversations with Sergeant Jones, and in her e-mail to family court. However, just as there was no opportunity to question the complainant about the accuracy of her initial narrative, there also was no chance to probe the circumstances under which she made her recantation, and so we need to consider the surrounding circumstances. In the conversations where she recanted, the complainant repeatedly stressed her concerns about how this case was causing harm to Respondent's job and their relationship, which may well have been a motivating factor in why the complainant reversed her story; she stated, for instance, that the case was "taking a toll on our [relationship] the fact that he's not getting promoted and he's still on modified duty, like it sucks, you know. It sucks for us as a family." (Dept. Ex. 6 at 3) Further, the complainant relied upon Respondent for financial support, as Respondent, himself, acknowledged. All told, I am not persuaded by the complainant's recantations, which occurred more than six months after the incident.

Taken as a whole, the credible evidence has established that Respondent wrongfully engaged in a physical altercation with the complainant, during which he pushed or shoved her down, and forcibly held her there. Such conduct was prejudicial to the good order, discipline, or efficiency of the Department, and I find Respondent guilty of Specification 1.

## PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 10, 2007. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no disciplinary record.

Respondent has been found guilty of wrongfully engaging in a physical altercation with the complainant. After being accused of cheating, Respondent aggressively pushed the complainant and held her down, a response that was disproportional and inappropriate from a long-time member of the Department. The Department takes every instance of domestic violence seriously, and there must be appropriate accountability for Respondent's conduct in this matter.

The Department Advocate asks that Respondent forfeit thirty (30) vacation days. That recommendation is reasonable. The Advocate notes that the 2019 presumptive discipline protocol for cases involving domestic violence, which would call for a baseline penalty that includes dismissal probation, was not yet in effect at the time of this incident. Rather, the applicable precedent supports the forfeiture of vacation days as the appropriate penalty here. See *Disciplinary Case No. 2019-20423* (Mar. 24, 2020) (Eight-year police officer with no disciplinary record agreed to forfeit thirty (30) vacation days for pushing his pregnant wife who was blocking the door, and for leaving the scene of the incident without reporting it).

Additionally, there are some mitigating factors present in this case. The complainant did not suffer any injuries from this incident, and Respondent was not arrested for his conduct in this matter. Also, Respondent has already completed a four-week counseling program, and there was no evidence of any additional incidents between them. Respondent has no disciplinary record, and has been awarded five medals for Excellent Police Duty.

Under the specific circumstances of this case, the Advocate's recommended penalty is fair and equitable. Taking into account the totality of the facts and issues in this matter, I recommend that Respondent forfeit thirty (30) vacation days.

Respectfully submitted,



Jeff S. Adler  
Assistant Deputy Commissioner Trials





## POLICE DEPARTMENT CITY OF NEW YORK

**From:** Assistant Deputy Commissioner – Trials

**To:** Police Commissioner

**Subject:** CONFIDENTIAL MEMORANDUM  
SERGEANT OMAR SALEM  
TAX REGISTRY NO. 943768  
DISCIPLINARY CASE NO. 2018-18434

Respondent was appointed to the Department on January 10, 2007. On his last three annual performance evaluations, he received 4.5 overall ratings of "Extremely Competent/Highly Competent" for 2017, 2018 and 2019. Respondent has been awarded five medals for Excellent Police Duty.

Respondent has no disciplinary history. In connection with the instant matter, he was placed on Level 1 Discipline Monitoring on January 18, 2018. Monitoring remains ongoing.

For your consideration.

Jeff S. Adler  
Assistant Deputy Commissioner Trials